

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION**

**CIVIL NO. 5:04CV185
(5:02CR43)**

DAVID EZEL SIMPSON)	
)	
Petitioner,)	
)	
Vs.)	<u>ORDER</u>
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
<hr/>)	

THIS MATTER is before the Court on the Petitioner's motion for summary judgment filed November 3, 2005.

A Memorandum and Order denying the Petitioner's motion to vacate, set aside, or correct judgment pursuant to 28 U.S.C. § 2255 was filed on July 19, 2005, and a Judgment was issued the same date dismissing the action. **See Memorandum and Order, filed July 19, 2005; Judgment, filed July 19, 2005.** Therefore, the Petitioner's motion for summary judgment is moot.

IT IS, THEREFORE, ORDERED that the Petitioner's motion for summary judgment is **DENIED** as moot.

Signed: November 8, 2005

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

